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for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04878 (BRL)

v.

LISA BETH NISSENBAUM TRUST; NEAL KURN,
in his capacity as Trustee for the Lisa Beth
Nissenbaum Trust; and LISA B. NISSENBAUM,

Defendants.

PLAINTIFF'S INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure as made applicable to this adversary proceeding by Rule 7026 of the Federal Rules of Bankruptcy Procedure, Irving H. Picard, (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS"), under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA"), and Bernard L. Madoff ("Madoff"), by and through his counsel Baker & Hostetler LLP, hereby provides the following initial disclosures.

These disclosures are made without waiver of, and with preservation of the right to raise and/or fully address the following:

1. All issues as to competency, relevancy, materiality, privilege and admissibility of matters disclosed herein, and the subject matter thereof, as evidence for any purpose in this action or subsequent actions;
2. The right to object to any matters disclosed herein, or the subject matter thereof, on any ground, throughout this and/or any other action;
3. The right to object on any ground at any time to a demand or a request for further disclosure of matters identified herein, including, but not limited to the forms of discovery allowed by the Federal Rules of Civil Procedure or other discovery proceedings involving or relating to the subject matter of this controversy; and
4. The right at any time to revise, correct, add to, supplement or clarify any of the disclosures contained herein.

To the extent that any matters disclosed by the Trustee herein have been disclosed inadvertently, and such matters otherwise fall within the scope of a privilege, the Trustee shall

not be deemed to have waived such privilege as to any such disclosure or the information contained therein. Likewise, the Trustee shall not be deemed to have waived his right to such privilege as to any other matter that may arise during the course of this litigation or any subsequent proceeding.

The Trustee's disclosures represent a good faith effort to identify information called for by Rule 26 of the Federal Rules of Civil Procedure. The Trustee has no personal knowledge of the information set forth herein. However, these disclosures should not be construed as constituting all of the facts, evidence, or other information that may exist, or that may eventually be established, in support of the Trustee's claims that have been and may be asserted in this action. As the Trustee's investigation continues he will supplement his disclosures to the extent required by Rule 26(e).

- A. Rule 26(a)(1)(A)(i). The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Upon information and belief, the following individuals, or where deceased, the estates of the individuals, are likely to have discoverable information. The Trustee reserves his right to supplement this list as other individuals and/or entities become known, and/or as different subjects become relevant.

At the present time, the Trustee provides the following:

1. The following are Defendants in the above-referenced Adversary Proceeding:
 - (a) Lisa Beth Nissenbaum Trust c/o Gerald L. Shelly and Anthony W. Austin, FENNEMORE CRAIG, P.C., 3003 N. Central Avenue, Suite 2600, Phoenix, AZ 85012-2913;
 - (b) Neal Kurn, c/o Gerald L. Shelly and Anthony W. Austin,

FENNEMORE CRAIG, P.C., 3003 N. Central Avenue, Suite 2600,
Phoenix, AZ 85012-2913;

- (c) Lisa B. Nissenbaum, c/o Gerald L. Shelly and Anthony W. Austin,
FENNEMORE CRAIG, P.C., 3003 N. Central Avenue, Suite 2600,
Phoenix, AZ 85012-2913.
- 2. Former BLMIS executives and employees, former Madoff Securities International Ltd. ("MSIL") employees, financial institutions, and regulatory agencies identified on Exhibit A attached to these Initial Disclosures;
- 3. The following individuals may have discoverable information relating to the Adversary Proceeding:
 - (a) Wells Fargo Bank – Arizona, N.A., 100 West Washington, Phoenix, AZ 85003.
- B. Rule 26(a)(1)(A)(ii). A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

As a result of Judge Stanton's order dated December 15, 2008, the Trustee has assumed possession of and/or has access in conjunction with the Federal Bureau of Investigation to approximately 11,700 boxes of BLMIS paper documents and 19,000 media sources containing electronically stored information ("ESI"), which include, but are not limited to, desktop computers, laptop computers, AS/400 computers, hard drives, network storage, microfilm, microfiche, back up tapes, PDAs, floppy disks, compact discs and memory cards. The Trustee has preserved all of the data he assumed possession of on December 15, 2008. With respect to these materials, some paper and some ESI are stored in one or more electronic databases, totaling 3.5 terabytes or 27.9 million documents. Materials not contained on the databases are stored either in Long Island City, New York or Rosendale, New York.

Because the investigation of BLMIS's books and records continues, the Trustee may learn that additional documents, ESI, and/or tangible things support the Trustee's claims. Any

omissions are inadvertent. Consequently, the Trustee reserves his right to supplement this list and the production of materials as other documents become known and/or as different subjects become relevant.

At the present time, the Trustee identifies the following documents, electronically stored information, or tangible things in the possession of Plaintiff's counsel that contain information relevant to the matter in controversy.

1. Customer account documents: The Trustee will provide a set of account documents related to the BLMIS account at issue in this Adversary Proceeding, including account opening documents, correspondence with the customer, account statements, and documents related to deposits and withdrawals relating to the applicable BLMIS account. These account documents will be provided at a mutually agreeable time.
2. Documents sufficient to prove that BLMIS was a fraudulent Ponzi scheme going back to at least March 1983.
3. Documents sufficient to prove that BLMIS was insolvent from the period of August 29, 2008 through December 11, 2008, the 90-day preference period, and also from the period of October 31, 2002 through December 11, 2008, the 6-year fraudulent transfer period.

The Trustee intends to make available a set of approximately 4 million documents in a virtual data room to prove that BLMIS was a fraudulent enterprise and that BLMIS was insolvent. The documents supporting the conclusion that BLMIS was a fraudulent enterprise will include BLMIS customer account ledgers, records and statements; portfolio management reports and portfolio transaction reports; correspondence from customer files; bank statements and financial records for the Investment Advisory business; documents supporting calculation of purported convertible arbitrage trades; daily stock records; documents describing BLMIS computers systems used to create customer statements; documents related to BLMIS trades settled by the Depository Trust & Clearing Corporation; materials related to BLMIS's purported options trading activity; and FOCUS reports and filings with the Securities and Exchange

Commission. The documents supporting the conclusion that BLMIS was insolvent will include Investment Advisory business cash balances and customer account liabilities; Marketing Making business and Proprietary Trading businesses cash balances and securities data; and documents related to the appraisal and valuation data of the Marketing Making business and Proprietary Trading businesses. Instructions regarding how to access the data room will be made available upon written request directed to Judy Selby, Esq., Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, NY 10111, jselby@bakerlaw.com. A more detailed index of these materials will accompany the instructions regarding how to access the data room, including a listing of public and/or commercially available market information relied upon by the Trustee.

- C. Rule 26(a)(1)(A)(iii). A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

As set forth in the Complaint, BLMIS made transfers to Defendants totaling at least \$625,551 in fictitious profits during the applicable avoidance period and the Trustee seeks the avoidance and return of all such fictitious profits from Defendants. BLMIS records upon which the computations are based are available for inspection in the data room and printing upon request. In addition, the Trustee seeks prejudgment interest of 9% per annum and attorneys' fees and costs.

- D. Rule 26(a)(1)(A)(iv). For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

To the Trustee's knowledge, there are no insurance agreements under which an insurance business may be liable to satisfy all or part of a possible judgment in the instant action, or to indemnify or reimburse for payments made to satisfy the judgment.

Date: New York, New York
August 1, 2011

Respectfully submitted,

By: /s/ Marc E. Hirschfield
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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and Bernard L. Madoff*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 1st day of August, 2011 by electronic mail upon the following:

Gerald L. Shelley
Anthony W. Austin
FENNEMORE CRAIG, P.C.
3003 N. Central Avenue, Suite 2600
Phoenix, AZ 85012-2913
Telephone: (602)916-5419
Facsimile: (602) 916-5347
Email: gshelley@fclaw.com
Email: aaustin@fclaw.com

/s/ Dean D. Hunt
An Attorney for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and Bernard L. Madoff

EXHIBIT A

Bernard L. Madoff has intimate knowledge of the fraud and business operations at BLMIS.

The Trustee has brought adversary proceedings against the following persons who were employed at various times by BLMIS and, upon information and belief, had either actual knowledge or constructive knowledge of the fraud at BLMIS.

**Annette Bongiorno
Daniel Bonventre
Enrica Cotellessa-Pitz
JoAnn "Jodi" Crupi
Craig Kugel
David Kugel
Eric Lipkin**

**Irwin Lipkin
Andrew Madoff
Mark Madoff (deceased)
Peter Madoff
Shana Madoff
Stanley Shapiro**

The following persons were employed at various times by BLMIS and, upon information and belief, performed managerial, administrative and/or supervisory work for BLMIS.

**Annette Bongiorno
Daniel Bonventre
Edward Coughlin
Enrica Cotellessa-Pitz
Frank Dipascoli
Margaret Gavlik
Martin Joel Jr. (deceased)
Craig Kugel**

**David Kugel
Eric Lipkin
Irwin Lipkin
Andrew Madoff
Mark Madoff (deceased)
Peter Madoff
Shana Madoff**

The following persons were employed at various times by BLMIS and, upon information and belief, performed work in connection with the investment advisory accounts at BLMIS.

**Semone Anderson
Dana Barbato
Annette Bongiorno
Cedric Brown
Jamaal Bryant
Nicole Canci
Christopher Caragliano
Robert Cardile
Francine Carpino
Darlene Concepcion
Jennifer Considine**

**Alethea Mui
Miguel Munnlyn
Damien Murray
William Nasi
Jeanmarie Nicolo
Martin Noer
Jerome O'Hara
Magdalena Ortiz
Rafael Pagan
George Perez
Sharda Persaud**

**JoAnn “Jodi” Crupi
Daniel Cummings
Concetta D’Aco
Nicole Dibra
Frank Dipascali
Enrique Flores
Marie Garibaldi
Norma Garvey
Willerdean General
Mark Gordon
Laura Gorsky
Evelyn Guedes
Diana Guzman
Heresh Hemrajani
Winifier Jackson
Amy Joel
Allyson Johnson
Belle Jones
Dorothy Khan
Eric Lipkin
Chris McNally**

**Asha Raghunauth
Martha Raghunauth
Oscar Rapalo
Erin Reardon
Robert Roamer
Abbe Rollins
Willie Ross
Joann Sala
Nicholas Scaletta
Elizabeth Serrano-Berrios
Patricia Solano
Racquel Stanko
Kelly Thompson
Walter Tiletnick
Victoria Vanaria
Christopher Warrin
Sean-Louis Wharton
Charlene White
Gary Williams
Edward Wilson**

The following persons were employed at various times by BLMIS and, upon information and belief, performed work in connection with the market making and proprietary trading at BLMIS, and did provide or may have provided administrative support in connection with the investment advisory accounts at BLMIS.

**John Bonventre
John Fanizzi
Juan Gonzalez (deceased)
Michael Guelleme
Scott Hendell
Carlos Hernandez
William Nasi**

**Jose Romaro (deceased)
Brett Sondike
Anthony Tiletnick (deceased)
Steven Tiletnick
Walter Tiletnick
Edgar Torres
Robert Weber**

The following persons were employed at various times by BLMIS and, upon information and belief, performed work in connection with the information systems at BLMIS.

**Vikas Agninotri
Vito Amedeo
Michael Anselmo
Maurice Arbitrario
Toniann Astudo
Sandra Barrett**

**Rajeth Koneru
Deborah Koster
Milana Krupetsky
Adam Lanier
Helaine Loman
Gaetano Marasa**

**Sally Batalion
James Belland
Michael Benatar
Nikil Bhatt
Chet Bloom
Eduardo Cacas Jr.
Richard Caputo
Elizabeth Caro
Terrence Chen
Edward Chou
Leon Cohn
Andrew Connelly
Johann Coster
Frederick DeLisi
Daniel Eckhaus
Nicholas Eversley
Robert Falcone
Jeremy Flax
Kevin Fong
Carlos Fraga
Stephanie Fullerton
Pat Garcia
Michael Gatto
Felice Gioino
Michael Glazer
Johann Greene
Jason Gross
Joseph Guitian
Pragya Gupta
Haresh Hemrajani
Sylvia Hendell
Alfred Herbert
Kenneth Hutchinson
Nadar Ibrahim
Paul Janicki
Anthony Jimenez
George Jorgenson
Vitaly Kagan
Rosanne Kallinkos
Brian Knapp**

**Richard Marini
Julius Marucci
Ralph Mastrangelo
Robert McMahon
Irina Melamud
Lisa Miceli
Michael Moses
Peter Moy
Walid Nabile
Rafael Nunez
William Nunez
Jerome O'Hara
Magdalena Ortiz
Raymond Parker
John Peacock III
Yefim Pechatnikov
George Perez
Debra Peter
Edward Reideler III
William Rodriquez
Coy Royster
Frankie Sanchez
Benjamin Scharlop
Robert Schwartz
Razi Selami
Henry Sharr
Hong Shen
Robert Sheredos
Clinton Darryl Sherman
Apriel Slawski
Joseph Suazo
Stephanie Sullivan
George Sun
Elvis Torres
John Tsinkelis
Chris Valentino
Elizabeth Weintraub (deceased)
Charlene White
Gary Williams
Lisa Zdanowicz
Vladimir Zelenko**

The following persons were employed at various times by BLMIS and, upon information and belief, have knowledge regarding the revenue received by BLMIS in connection with its market

making and proprietary trading activities.

Daniel Bonventre
Edward Coughlin
Enrica Cotellessa-Pitz
Margaret Gavlik
Martin Joel, Jr. (deceased)
Craig Kugel

David Kugel
Irwin Lipkin
Andrew Madoff
Mark Madoff (deceased)
Peter Madoff
Shana Madoff

The following financial institutions have information relating to the transfers of funds relating to the investment advisory accounts at BLMIS.

Bankers Trust
Bank of New York
Barclays Capital
Bear Sterns
Dresdner
Fidelity

JPMorgan Chase & Co.
Kleinwort Benson
Lehman Brothers
Morgan Stanley / Dean Witter
M&T Securities
Royal Bank of Scotland

The following persons were directors of MSIL, a BLMIS affiliate located in London, and, upon information and belief, have knowledge regarding transfers of funds between BLMIS and MSIL.

Christopher Dale
Leon Flax
Andrew Madoff
Bernard Madoff
Mark Madoff (deceased)
Peter Madoff

Anthony Marshall
Stephen Raven
Malcolm Stevenson
Linda Sutton
Philip Toop

The following persons provided accounting services for BLMIS.

David G. Friehling

Friehling & Horwitz, CPAs, P.C.

The following regulatory entities have information regarding, among other topics, BLMIS, investigations and/or examinations of BLMIS, and/or regulatory filings made by BLMIS

Securities and Exchange Commission

Financial Industry Regulatory Authority

A full list of persons who were employed by BLMIS is available upon request.